1952 **File No.** OB(S(C,D&A)R
78/52

Legal Deptt.

G **BRANCH**

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Bombay Civil Services

(Conduct, Discipline & Appeal)

Rule

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As Shri Calgli was a temporary servant, his services could have been terminated according to the terms of his appointment contained in the order of the Additional Administrator, Jamkhandi No. 12290, dated the 29th July 19.9 without any notice and without assigning any reasons. The real difficulty is however created by the District Magistrate, Bijapur's Order dated the 17th October 1949 dispensing with the services of Shri Galgali with effect from the date of his suspension on the ground that he was reported to be unreliable. It is therefore clear that his services were terminated by reason of misconduct on his part. This would amount to a penalty for which a departmental enquiry ought to have been held and Shri Galgali ought to have been given a chance to explain his case (Jayanti Prasad Vs. State of Uttar Pradesh 1951 A.L.J. 450). The suit if filed would therefore not be defensible in view of this position. The best course would be to set aside the order of discharge, to reinstate Shri Galgali in service and thereafter to terminate his service after a month's notice as he is purely a temporaty hand.

Shri Galgali would be entitled to suspension allowance from the date of suspension to the date of discharge from service.

Remembrancer of Legal Affairs.
U.R. to C.S.D., No. G. 283, dated the 28th June 1952.

SSM / 21/7/56.

Office of the R.L.A.

It was stated in the last paragraph of R.L.A's opinion No. G-228, dated the 28th June 1952, that Shri Galgali would be entitled to suspension allowance from the date of suspension to the date of discharge from service. The date of suspension and date of discharge which were referred to in that paragraph were 27th September 1949 and 11th October 1949 ~~keep~~ respectively ~~The order of~~ order of discharge passed by the District Magistrate, Bijapur on the 11th October 1949 was not legal as such an order could not have been passed with retrospective effect from the 27th September 1949 on which date Shri Galgal was suspend d. This paragraph had therefore no connection with the discharge which was proposed to be made after reinstatement as advised in paragraph 1 of the said R.L.A's opinion.

The order of discharge dated the 11th October 1949 was not legal according to the R.L.A's opinion referred to above and therefore if that order is cancelled then the suspension order dated the 27th September 1949 would be operative and would continue to be operative after the discharge order is cancelled. If thereafter a departmental enquiry is held and the person is discharged after such departmental enquiry, for all this period it would be legal to pay only suspension allowance to Shri Galgali. On the other hand, if on cancellation of the order dated the 11th October 1949 Shri Galgali is reinstated in service, and if no departmental enquiry be practicable that would mean that his order of suspension dated the 27th September 1949 was not proper and therefore he would be entitled to the full pay from he date of suspension to the date of reinstatement and also for the period of notice till the final termination of his services.

Remembrancer of Legal Affairs.

U.R. to C.S.D. No. G- 476, dated 22/9/1952.